

HOUSE BILL No. 1102

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-35.

Synopsis: Renewable energy development. Requires an electricity supplier (other than a rural electric membership cooperative or a municipally owned utility) to supply a certain percentage of its total electricity supply from renewable energy resources. Establishes the renewable energy resources fund. Requires an electricity supplier that fails to supply electricity from renewable energy resources to pay a penalty. Deposits the penalties in the renewable energy resources fund. Requires the Indiana economic development corporation, in consultation with the Indiana utility regulatory commission, to develop a strategy to attract renewable energy manufacturing facilities, including wind turbine component manufacturers, to Indiana.

Effective: Upon passage.

Crooks, Ulmer

January 14, 2008, read first time and referred to Committee on Commerce, Energy and Utilities.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1102

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-35 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 35. Renewable Energy Development**

5 **Sec. 1.** As used in this chapter, "electricity supplier" means a
6 public utility that furnishes retail electric service to the public. The
7 term does not include a public utility that is:

8 (1) a corporation organized under IC 8-1-13;

9 (2) a corporation organized under IC 23-17-1 that is an
10 electric cooperative and that has at least one (1) member that
11 is a corporation organized under IC 8-1-13; or

12 (3) a municipally owned utility (as defined in IC 8-1-2-1(h)).

13 **Sec. 2. (a)** As used in this chapter, "end use energy efficiency
14 improvement" means the installation and use of a device or the use
15 of a method or project on the customer side of an electric utility
16 metering device that reduces electrical energy usage.

17 **(b)** The term includes the following:

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- (1) Home weatherization.
- (2) Appliance efficiency modifications or replacements.
- (3) Motor efficiency modifications or replacements.
- (4) Lighting efficiency modifications.
- (5) Heating or air conditioning modifications or replacements.
- (6) Building designs with the purpose of achieving end use energy reductions.

Sec. 3. As used in this chapter, "fund" refers to the renewable energy resources fund established by section 9 of this chapter.

Sec. 4. As used in this chapter, "regional transmission organization" refers to a regional transmission organization approved by the Federal Energy Regulatory Commission for the geographic area in which an electricity supplier's assigned service area (as defined in IC 8-1-2.3-2) is located.

Sec. 5. As used in this chapter, "renewable energy credit", or "REC", means one (1) megawatt hour of electricity generated by renewable energy resources that is:

- (1) quantifiable;
- (2) possessed by not more than one (1) entity at a time; and
- (3) associated with electricity generated by renewable energy resources that are constructed or installed after January 1, 2008.

Sec. 6. (a) As used in this chapter, "renewable energy resources" includes the following sources for the production of electricity:

- (1) Dedicated crops grown for energy production.
- (2) Methane systems that convert waste products, including animal, food, and plant waste, into electricity.
- (3) Methane recovered from landfills.
- (4) Wind.
- (5) Hydropower, other than hydropower involving the construction of new dams or the expansion of existing dams.
- (6) Solar photovoltaic cells and panels.
- (7) Fuel cells that directly convert chemical energy in a hydrogen rich fuel into electricity.
- (8) Sawmill waste, other than waste derived from virgin timber.
- (9) Agricultural crop waste.
- (10) Combined heat and power systems that:
 - (A) use natural gas or renewable energy resources as feedstock;
 - (B) achieve at least seventy percent (70%) overall efficiency; and

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(C) are constructed after January 1, 2008.

(11) End use energy efficiency improvements, installed after January 1, 2008, that reduce electrical energy usage.

(b) The term does not include energy from the incineration, burning, or heating of the following:

(1) Tires.

(2) Garbage.

(3) General household, institutional, or commercial waste.

(4) Industrial lunchroom or office waste.

(5) Landscape waste.

(6) Construction or demolition debris.

(7) Feedstock that is municipal, food, plant, industrial, or animal waste from outside Indiana.

Sec. 7. (a) Each electricity supplier shall supply electricity generated or reduced by renewable energy resources to Indiana customers as a percentage of the total electricity supplied by the electricity supplier to Indiana customers as follows:

(1) Not later than December 31, 2009, at least one percent (1%).

(2) Not later than December 31, 2010, at least two percent (2%).

(3) Not later than December 31, 2011, at least three percent (3%).

(4) Not later than December 31, 2012, at least four percent (4%).

(5) Not later than December 31, 2013, at least five percent (5%).

(6) Not later than December 31, 2014, at least six percent (6%).

(7) Not later than December 31, 2015, at least seven percent (7%).

(8) Not later than December 31, 2016, at least eight percent (8%).

(9) Not later than December 31, 2017, at least nine percent (9%).

(10) Not later than December 31, 2018, at least ten percent (10%).

For purposes of this subsection, electricity is measured in megawatt hours.

(b) An electricity supplier may use a renewable energy resource described in section 6(a)(10) of this chapter to generate not more than ten percent (10%) of the electricity that the electricity

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supplier is required to supply under subsection (a).

(c) An electricity supplier may use a renewable energy resource described in section 6(a)(11) of this chapter to generate not more than ten percent (10%) of the electricity that the electricity supplier is required to supply under subsection (a).

(d) An electricity supplier may own or purchase RECs to comply with subsection (a).

(e) An electricity supplier is responsible for conducting sufficient advance planning to acquire its allotment of RECs.

(f) An electricity supplier that fails to comply with subsection (a) shall deposit in the fund an amount equal to:

(1) the number of megawatt hours of electricity that the electricity supplier was required to but failed to supply under subsection (a); multiplied by

(2) fifty dollars (\$50).

(g) An electricity supplier is not required to comply with subsection (a) if the commission determines that events beyond the reasonable control of the electricity supplier prevent it from meeting its renewable energy resources or REC requirements. For purposes of this subsection, "events beyond the reasonable control of the electricity supplier" include only the following:

(1) Weather related damage.

(2) Mechanical failure.

(3) Lack of transmission capacity or availability.

(4) Strikes or lockouts.

(5) Actions of a governmental authority that adversely affect the generation, transmission, or distribution of energy from renewable energy resources under contract to a purchaser.

(6) An emergency as found by the commission under IC 8-1-2-113.

The term does not include failure of the spot or short term market to supply an electricity supplier with the allocated number of RECs.

(h) The commission shall conduct a public hearing before making a determination under subsection (g).

(i) If the commission determines under subsection (g) that events beyond the reasonable control of the electricity supplier prevent it from meeting its renewable energy resources or REC requirements, the commission shall:

(1) reduce the affected electricity supplier's obligations under subsection (a) as appropriate; and

(2) review its determination not more than six (6) months

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after the reduction under subdivision (1) takes effect.

(j) The commission shall allow an electricity supplier to recover reasonable and necessary costs incurred in:

(1) constructing, operating, or maintaining facilities to comply with this chapter; or

(2) generating electricity from, or purchasing electricity generated from, a renewable energy resource; by a periodic rate adjustment mechanism.

Sec. 8. (a) For purposes of calculating RECs to determine an electricity supplier's compliance with section 7(a) of this chapter, the following apply:

(1) One (1) megawatt hour of electricity generated by renewable energy resources in an Indiana facility equals one (1) REC.

(2) One (1) megawatt hour of electricity generated by a renewable energy resource described in section 6(a)(2), 6(a)(6), 6(a)(8), or 6(a)(9) of this chapter that originates in Indiana equals one and two-tenths (1.2) RECs.

(3) One (1) megawatt hour of electricity that is:

(A) generated by a renewable energy resource in the territory of a regional transmission organization; and

(B) imported into Indiana;

equals five-tenths (0.5) REC.

(4) One (1) megawatt hour of electricity that is generated by a renewable energy resource described in section 6(a)(10) of this chapter in Indiana equals five-tenths (0.5) REC.

(b) Electricity generated by any source outside the territory of a regional transmission organization may not be considered for purposes of calculating an REC to determine an electricity supplier's compliance with section 7(a) of this chapter.

(c) An electricity supplier may satisfy not more than ten percent (10%) of the electricity supplier's requirement under section 7(a) of this chapter by owning or purchasing RECs calculated under subsection (a)(4).

(d) An electricity supplier may calculate only one (1) REC for each megawatt hour of electricity.

Sec. 9. (a) The renewable energy resources fund is established to:

(1) support the development, construction, and use of renewable energy resources, including small scale renewable energy resources, in rural and urban Indiana; and

(2) reimburse the Indiana economic development corporation

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and the commission for expenses incurred under section 10 of this chapter.

(b) The fund consists of the following:

(1) Money deposited under section 7(f) of this chapter.

(2) Money from any other source that is deposited in the fund.

(c) The Indiana economic development corporation shall administer the fund.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 10. (a) This section applies if there is sufficient money in the fund to reimburse the Indiana economic development corporation and the commission for expenses incurred under subsection (b).

(b) The Indiana economic development corporation, in consultation with the commission, shall develop a strategy to attract renewable energy manufacturing facilities, including wind turbine component manufacturers, to Indiana.

Sec. 11. Not later than March 1 of 2011 and each year thereafter, a utility shall file with the commission a report of the utility's compliance with this chapter for the preceding calendar year.

Sec. 12. The commission shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 2. [EFFECTIVE UPON PASSAGE] Not later than April 1, 2013, the Indiana utility regulatory commission shall submit a report in an electronic format under IC 5-14-6 to the general assembly. A report submitted under this SECTION must include:

(1) an analysis of; and

(2) any legislative proposals the commission believes would increase;

the effectiveness of and industry compliance with IC 8-1-35, as added by this act.

SECTION 3. An emergency is declared for this act.

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